bia Gas & Electric Co. v. *Knickerbocker Trust Co.*, 136 N. Y. Supp. 840. But where there were to be direct appropriations to retire specific numbers of bonds annually, the ones retired to be selected by lot, this was held not to be a sinking fund in *Weinman* v. *Blake & Knowles Steam Pump Co.*, 140 N. Y. Supp. 1085. The distinction drawn is observed in the instant case.

CORPORATIONS—CORPORATION BOUND BY CONTRACT MADE BY SHAREHOLDER CONTROLLING ITS OPERATIONS.—Where the plaintiff sued for an increase in his salary as general manager from $40 a week to $60 a week, *held* that whether this increase had been made by the two shareholders controlling substantially all the stock and controlling the operation of the corporation, and whether they had authority to bind the corporation, was a matter for the jury. *Harrison* v. *Repetti* (1916), 160 N. Y. Supp. 1018.

A contract made with those who later acquired all the stock and constituted four of the five directors of the corporation *held* to bind the corporation and to entitle the plaintiff to an equitable account. *Beltz* v. *Garrison* (Pa. 1916), 98 Atl. 956.

The well-established doctrine is that the shareholder of a corporation, whether he hold one share or all the shares, has no authority to bind the corporation to any contract he may make in its behalf merely by reason of his interest in the company. Some of the many cases along this line are: *Shankland* v. *Crane Oxygen Works & Ambulance Co., Inc.*, 151 N. Y. Supp. 899, employment contract; *World's Panama Exposition Co.* v. *American Brewing Co.*, 134 La. 921, 64 So. 832, all stockholders except two; *Eichelberger* v. *Mann*, 115 Va. 774, 80 S. E. 595; *Reed* v. *Inhabitants of Trenton* (N. J. Eq. 1912), 85 Atl. 270, sole shareholder; *Puritan Coal Mining Co.* v. *Pennsylvania Ry. Co.*, 237 Pa. 420, 85 Atl. 426, in which all the shareholders united in the contract; *McAveigh* v. *Pelham Park Ry. Co.*, 120 N. Y. Supp. 102; *Collins* v. *Leary*, 74 N. J. Eq. 852, 77 N. J. Eq. 529, 71 Atl. 603, 74 Atl. 42, principal shareholder; *McClaskey* v. *Goldman*, 115 N. Y. Supp. 189, principal shareholders; *Lawson* v. *Black Diamond Coal Co.*, 44 Wash. 26, 86 Pac. 1120, shareholder in absolute control; *Breathitt Coal, Iron & Lumber Co.* v. *Gregory*, 25 Ky. L. Rep. 1507, 78 S. W. 148, employment; *Jones* v. *Williams*, 139 Mo. 1, 39 S. W. 486, majority shareholder. But a heterodox doctrine based on the principles of implied agency, and inspired by the manifest injustice often accomplished by application of the older rule, seems to be growing in favor and is exemplified in the instant cases. The leading case of this line of decisions seems to be *G. V. B. Min. Co.* v. *First Nat. Bank of Hailey*, 95 Fed. 23, in which it is stated that when the business of a corporation is conducted in an irregular manner, and contracts have thus been made with shareholders by one acting bona fide and with knowledge of the corporation methods of doing business, the ordinary rules, however well settled, as to powers of officers, etc., fail to apply, and the corporation will be bound. One radical recent case, citing the above as authority, holds that where two brothers owned all the shares of a corporation they were able to bind the corporation to contracts made by them as though they were partners, and without any action of the board of directors,

which the court said could be no more than "dummies." *Carney* v. *Penn Realty Co.*, 159 N. Y. Supp. 273. This is "looking beyond the corporate form" with a vengeance! Other cases following the principles of *G. V. B. Min. Co.* v. *Bank* are: *Murphy* v. *W. H. & F. W. Cane, Inc.*, 82 N. J. L. 557, 82 Atl. 854, holding that when shareholders perform the acts normally performed by directors, and in the regular course of business, their acts bind the corporation; *McElroy* v. *Minnesota Percheron Horse Co.*, 96 Wis. 317, 71 N. W. 652, where the corporation was held bound by acts of its president who controlled all but "dummy" stock and without authority exercised the functions of the directors; *Hatch* v. *Johnson Loan & Trust Co.*, 79 Fed. 828, where a note and mortgage, illegally executed by a shareholder, partly for his own debt and partly for that of the corporation, was held to be an equitable charge on the property of the corporation to the extent of the corporation debt. Principles of agency, of equity, and of "natural justice" are involved in these decisions which would seem to deserve careful analysis, in order to determine their force, value and direction. Cf. COOK, CORPORATIONS, § § 709, 663, 664, and 10 CYC. 760, 936, and especially the note in 10 MICH. L. REV. 310.

CORPORATIONS—PROMISSORY NOTE AS CONSIDERATION FOR ISSUANCE OF STOCK.—Stock in the defendant corporation had been issued to the plaintiff in return for his note and trust deed to realty sufficient in value to fully secure the note. The plaintiff seeks the rescission of the contract as invalid under the provision of the Texas Constitution that stock should be issued only for "money paid, labor done, or property actually received." *Held*, that the consideration failed to satisfy the provisions of the statute and that the contract should be rescinded. *Prudential Life Insurance Co. of Texas* v. *Pearson* (Tex. 1916), 188 S. W. 513.

Under statutes and constitutional provisions similar to those in Texas it is almost universally held that a note, even entirely unsecured, is "personal property," and therefore a valid consideration for the issuance of stock. *Quartz Glass & Mfg. Co.* v. *Joyce*, 27 Cal. App. 523, 150 Pac. 648; *German Mercantile Co.* v. *Wanner*, 25 N. D. 479, 142 N. W. 463; *First Nat'l Bank of Ottumwa* v. *Fulton*, 156 Iowa 734, 137 N. W. 1019. But the Texas courts, starting out with the proposition that a note is not "money" and that it is not "property" but "mere evidence of indebtedness," have held (1) a mere note fails to satisfy the statute, *Commonwealth Bonding &c. Co.* v. *Hollifield* (Tex. Civ. App. 1916), 184 S. W. 776; (2) a note secured by a pledge of the stock fails to satisfy the statute, *Republic Trust Co.* v. *Taylor*, (Tex. Civ. App. 1916), 184 S. W. 772; *Kanaman* v. *Gahagan* (Tex. Civ. App. 1916), 185 S. W. 619; (3) a note secured by solvent indorsers and a pledge of the stock fails to satisfy the statute, *McCarthy* v. *Texas Loan and Guaranty Co.* (Tex. Civ. App. 1911), 142 S. W. 96; (4) a note secured by a mortgage or deed of trust fails to satisfy the statute, as held in the principal case and in *Commonwealth Bonding &c. Co.* v. *Hill*, supra. In the last named case, however, the stock was retained in the possession and control of the corporation until the note should be paid and the court therefore held that it